



UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: )  
MOORE ET AL. )

Serial No. 09/812,703 )

Filed: MARCH 19, 2001 )

For: METHODS FOR COLLECTING FEES )  
FOR HEALTHCARE MANAGEMENT )  
GROUP )

Attorney Docket No.:  
24996

**RECEIVED**  
FEB 05 2002  
Technology Center 2100

PETITION TO MAKE SPECIAL

Attention: Office of Petitions  
Assistant Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

Sir:

Pursuant to MPEP §708.02, Applicants hereby petition the United States Patent and Trademark Office (PTO) to afford the above-referenced patent application special status. Applicants submit that Claims 1-20 of the present application are directed to a single invention. As noted in more detail below, Applicants have conducted a patentability search. A hand search was conducted in Class 705, Subclasses 1, 2, 3 and 4. The hand search was supplemented with a computer search using CASSIS and/or WEST computer software. Attached at Exhibit A is one copy of each of the references located during the patentability search.

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DISCUSSION OF REFERENCES

The following patents were located during the patentability search: Seare et al. '514, Lockwood '441, Perkins et al. '379, Dang '897, Javitt '208, McIlroy et al. '704, Pack-Harris '612 and Seare et al. '164, published patent applications Oscar et al. '216 and Javitt '990 (See attached references at Exhibit A), and information disclosure declaration of Charles C. Lewis and Terrance Moore (See

In re Patent Application of:

**MOORE ET AL.**

Serial No.: **09/812,703**

Filed: **MARCH 19, 2001**

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Information Disclosure Statement filed on December 27, 2001 at Exhibit B).

(1) Pack-Harris '612 describes a pharmacy benefit management system for managing prescription drug activity of an individual physician and/or an entire medical group. The system includes a pharmacy computer for generating pharmacy claim information, a health plan computer for generating pharmacy activity information, and a medical group computer that receives and stores the pharmacy activity information from the health plan computer. The pharmacy activity information is processed to thereby enable a medical group to monitor the pharmacy activity within the medical group. Unlike the claimed invention in the present application, Pack-Harris '612, however, at least fails to teach or suggest gathering data from a plurality of physicians in a healthcare group to identify at least one physician that is at risk of not receiving a predetermined reimbursement amount from an insurance network and modifying the management behavior of the at least one physician so that the at least one physician will no longer be at risk of not receiving the predetermined reimbursement amount from the insurance network. The system described in Pack-Harris '612 also at least fails to teach or suggest an analyzer to analyze ancillary medical data to identify the above-referenced "at-risk" physicians, or a recommendation generator for making recommendations to physicians of alternative ancillary medical procedures that are preferred by an insurance network. Pack-Harris '612 still further at least fails to teach or suggest funding an incentive pool to be paid to physicians, and/or an insurance

In re Patent Application of:

**MOORE ET AL.**

Serial No.: 09/812,703

Filed: MARCH 19, 2001

---

network if ancillary medical costs do not decrease, or distributing predetermined percentages of savings to the insurance network, the physicians, or both relative to the ancillary medical cost decrease.

(2) Both Seare et al. '164 and Seare et al. '514 describe a method and system for generating statistically based medical provider utilization profiles based on collection and analysis of historical medical provider billings. More particularly, the systems and methods described in Seare et al. '164 and Seare et al. '514 read, analyze and merge historical data collected from provider billing to be compared by treatment costs and patient outcome to determine the most cost effective treatment approach. The systems and methods described in Seare et al. '164 and Seare et al. '514 also identify those medical providers who provide treatment that does not fall within predetermined treatment patterns or profiles. Unlike the claimed invention in the present application, Seare et al. '164 and Seare et al. '514, however, each at least fails to teach or suggest identifying at least one physician in a healthcare practice group that is at risk for not receiving a predetermined reimbursement amount from an insurance network and modifying that physicians management behavior so as to no longer be at risk of not receiving the predetermined reimbursement amount. Seare et al. '164 and Seare et al. '514 also each at least fails to teach or suggest a recommendation generator that makes recommendations to physicians in a healthcare practice group of alternative ancillary medical procedures that are preferred by an insurance network. Seare et al. '164 and Seare et al.

In re Patent Application of:  
**MOORE ET AL.**  
Serial No.: 09/812,703  
Filed: MARCH 19, 2001

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'514 further each at least fails to teach or suggest funding an incentive pool to be paid to physicians and/or an insurance network if ancillary medical costs do not decrease or distributing predetermined percentages of savings attributed to a decrease in ancillary medical costs to the insurance network and/or the physicians.

(3) McIlroy et al. '704, describes a healthcare management system to provide recommended treatment conditions responsive to user inputted query-response process for inputting information related to a predetermined health condition. A guideline treatment option is then provided to the user. The user may accept the guidelines provided or input proposed treatments that are different. Discrepancies between actual treatment provided to the individual and recommended treatment are identified and further analyzed. Unlike the claimed invention in the present application, McIlroy et al. '704, however, at least fails to teach or suggest gathering data from a plurality of physicians to identify at least one physician that is at risk for not receiving a predetermined reimbursement amount from an insurance network and modifying the management behavior of that physician so as to no longer be at risk for not receiving a predetermined reimbursement amount. McIlroy et al. '704 also at least fails to teach or suggest a system that includes an analyzer to analyze ancillary medical data and a recommendation generator that makes recommendations to the physicians in the healthcare practice group of alternative ancillary medical procedures that are preferred by an insurance network. McIlroy et al. '704 further at least fails

In re Patent Application of:

**MOORE ET AL.**

Serial No.: **09/812,703**

Filed: **MARCH 19, 2001**

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to teach or suggest funding an incentive pool to be paid to physicians and/or an insurance network if ancillary medical costs do not decrease or distributing predetermined percentages of savings attributed to a decrease in ancillary medical costs to the insurance network and/or the physicians participating in a healthcare practice group.

(4) Javitt '208 and U.S. Patent Application No. 20010041990 to Jonathan C. Javitt (Javitt '990) both describe a system in which a medical professional can input a plurality of variables relating to alternative contract scenarios and consults a database to forecast utilization of medical procedures and estimated revenue per procedure under different scenarios. Unlike the claimed invention in the present application, Javitt '208 and Javitt '990, however, each at least fails to teach or suggest identifying at least one physician in a healthcare practice group that is at risk of not receiving a predetermined reimbursement from an insurance network and modifying the management behavior of that physician. Javitt '208 and Javitt '990 also each at least fails to teach or suggest a system that includes an analyzer to analyze ancillary medical data or a recommendation generator that makes recommendations to physicians of alternative ancillary medical procedures that are preferred by an insurance network. Javitt '208 and Javitt '990 further each at least fails to teach or suggest funding an incentive pool to be paid to physicians and/or an insurance network if ancillary medical costs do not decrease or distributing predetermined percentages of savings attributed to a decrease

In re Patent Application of:  
**MOORE ET AL.**  
Serial No.: 09/812,703  
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in ancillary medical costs to the insurance network and/or the physicians.

(5) Lockwood '441 provides a method and apparatus for determining case load complexity level for each healthcare provider in a healthcare provider group. More particularly, Lockwood '441 describes collecting sickness episode data from each healthcare provider in a healthcare provider group, and assigning a case load complexity to each healthcare provider depending on calculated severity scores. The case load complexity level is representative of the patient case load serviced by a particular healthcare provider within the group of healthcare providers. Unlike the claimed invention of the present application, Lockwood '441, however, at least fails to teach or suggest gathering data from a plurality of physicians in a healthcare practice group to identify at least one physician that is at risk for not receiving a predetermined reimbursement amount from an insurance network and modifying the management behavior of that physician so as to no longer be at risk of not receiving the predetermined reimbursement amount. Lockwood '441 also at least fails to teach or suggest a recommendation generator that makes recommendations to the physicians in the healthcare practice group of alternative ancillary medical procedures that are preferred by an insurance network. Lockwood '441 further at least fails to teach or suggest funding an incentive pool to be paid to physicians and/or an insurance network if ancillary medical costs do not decrease or distributing predetermined percentages of savings to the insurance network and/or the

In re Patent Application of:  
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Serial No.: **09/812,703**  
Filed: **MARCH 19, 2001**

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physicians attributed to a decrease in ancillary medical costs.

(6) Perkins et al. '379 describes a computer aided system for comparing healthcare services from different providers. More particularly, Perkins et al. '379 describes collecting data regarding diseases of patients in a predetermined population, comparing the diseases of the patients, and modifying healthcare services rendered to improve their efficiency. Unlike the claimed invention of the present application, Perkins et al. '379, however, at least fails to teach or suggest gathering data from a plurality of physicians participating in a healthcare practice group to identify at least one physician that is at risk for not receiving a predetermined reimbursement amount from an insurance network and modifying the management behavior of that physician so as to no longer be at risk of not receiving the predetermined reimbursement amount. Perkins et al. '379 also at least fails to teach or suggest a system that includes an analyzer to analyze ancillary medical data and a recommendation generator that makes recommendations to the physicians of alternative ancillary medical procedures that are preferred by an insurance network. Perkins et al. '379 further at least fails to teach or suggest funding an incentive pool to be paid to physicians and/or an insurance network if ancillary medical costs do not decrease or distributing predetermined percentages of savings to the insurance network and/or the physicians attributed to a decrease in ancillary medical costs.

In re Patent Application of:  
**MOORE ET AL.**  
Serial No.: **09/812,703**  
Filed: **MARCH 19, 2001**

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(7) Dang '897 describes a computer program for profiling medical claims to assist healthcare managers in determining the cost-efficiency and service quality of healthcare providers. More particularly, the computer program described in Dang '897 collects group data based on episode treatment categories, and compares the various treatments of the patients to determine the most cost efficient treatment. Unlike the claimed invention of the present application, Dang '897, however, at least fails to teach or suggest gathering data from a plurality of physicians to identify at least one physician that is at risk for not receiving a predetermined reimbursement amount from an insurance network and modifying the management behavior of that physician so as to no longer be at risk of not receiving the predetermined reimbursement amount. Dang '897 also at least fails to teach or suggest a system that includes an analyzer to analyze ancillary medical data and a recommendation generator that makes recommendations to the physicians of alternative ancillary medical procedures preferred by an insurance network. Dang '897 further at least fails to teach or suggest funding an incentive pool to be paid to physicians and/or an insurance network if ancillary medical costs do not decrease or distributing predetermined percentages of savings to the insurance network and/or the physicians attributed to a decrease in ancillary medical costs.

(8) U.S. Patent Application 20010037216 by Oscar et al. (Oscar '216) describes a pharmacy benefits management system to identify drugs dispensed to patients, expenses associated with the drugs in accordance with the pharmacy benefits plan,



In re Patent Application of:

**MOORE ET AL.**

Serial No.: **09/812,703**

Filed: **MARCH 19, 2001**

---

and identify alternative drugs in the same class. More particularly, Oscar '216 describes a processor server having claims information relating to pharmacy benefit claims, a provider server having pharmacy benefits plan structure information stored thereon, a management server having price information relating drugs to various classes, and a processing module for correlating the claim information with the benefits plan structure information and the formulary information to identify drugs dispensed to patients, expenses associated with the drugs in accordance with the pharmacy benefits plan structure information, alternative drugs in the same class as the drugs, and expenses associated with the alternative drugs. Unlike the claimed invention of the present application, Oscar '216, however, at least fails to teach or suggest gathering data from a plurality of physicians to identify at least one physician that is at risk for not receiving a predetermined reimbursement amount from an insurance network and modifying the management behavior of that physician so as to no longer be at risk of not receiving the predetermined reimbursement amount. Oscar '216 also at least fails to teach or suggest a system that includes an analyzer to analyze ancillary medical data and a recommendation generator that makes recommendations to physicians of alternative ancillary medical procedures that are preferred by an insurance network. Oscar '216 further at least fails to teach or suggest funding an incentive pool to be paid to physicians and/or an insurance network if ancillary medical costs do not decrease or distributing predetermined percentages of savings attributed to a decrease in ancillary medical costs.

In re Patent Application of:  
**MOORE ET AL.**  
Serial No.: **09/812,703**  
Filed: **MARCH 19, 2001**

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(9) The information disclosure declaration by Charles C. Lewis and Terrance Moore notes that prior to the filing date, confidential experimental testing directed to the functional features of the invention claimed in the present patent application was conducted (see information disclosure declaration of Charles C. Lewis and Terrance Moore filed on December 27, 2001). More specifically, the declaration discloses a first confidential test that was conducted between October 1998 and December 1999 with Telesis Health Management (Telesis), and a second confidential test that was conducted between December 1998 and December 1999 with Deaconess Health Connection (Deaconess). The confidential tests were conducted to lower per member per month (PMPM) costs for both Telesis and Deaconess. The confidential experimental testing included gathering data from both Telesis and Deaconess, confidentially analyzing the gathered data, and providing the results of the analysis to representatives of Telesis and Deaconess. The first confidential test that was conducted for Telesis revealed problems in the system and methods which led to further development of the system and methods. The further developed system and methods were again tested in a second confidential test which was conducted for Deaconess. The results of the second confidential test were analyzed and problems were identified. The system and methods were still further developed and substantial improvements were made in an effort to perfect the system and methods of the present invention.

In re Patent Application of:  
**MOORE ET AL.**  
Serial No.: **09/812,703**  
Filed: **MARCH 19, 2001**

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**Conclusion**

Applicants respectfully submit that all the references located during the patentability search have been described in detail above and are further provided herewith at Exhibit A. Applicants therefore request that special status be afforded to the present application.

If any additional extension and/or fee is required, or if any additional fee for claims is required, please charge Account No. **01-0484**.

Respectfully submitted,



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In re Patent Application of:

**MOORE ET AL.**

Serial No.: **09/812,703**

Filed: **MARCH 19, 2001**

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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that this PETITION TO MAKE SPECIAL for Serial No. **09/812,703** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231, on this 16<sup>th</sup> day of January, 2002.

  
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DIANE BAKER